

Page 1 of 2

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2008-0394-PST-E TCEQ ID: RN101433456 CASE NO.: 35512**  
**RESPONDENT NAME: Chris Trout dba CTS C Store 1**

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> CTS C Store 1, 1950 North Highway 78, Wylie, Collin County</p> <p><b>TYPE OF OPERATION:</b> Convenience store with retail sales of gasoline</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on August 18, 2008. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b> TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Wallace Myers, Enforcement Division, Enforcement Team 6, MC 128, (512) 239-6580; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Chris Trout, Owner, CTS C Store 1, 1950 North Highway 78, Wylie, Texas 75098 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> February 13, 2008</p> <p><b>Date of NOV/NOE Relating to this Case:</b> February 25, 2008 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>WASTE</b></p> <p>1) Failure to conduct reconciliation of inventory control records at least once a month, in a manner sufficiently accurate to detect a release which equals or exceeds the sum of 1% of the total substance flow-through for the month plus 130 gallons [30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(c)(1)].</p> <p>2) Failure to test the line leak detectors at least once per year for performance and operational reliability [30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a)].</p> <p>3) Failure to provide proper release detection for the piping associated with the underground storage tank ("UST") system [30 TEX. ADMIN. CODE § 334.50(b)(2) and TEX. WATER CODE § 26.3475(a)].</p> <p>4) Failure to ensure that all spill and overfill prevention devices are maintained in good operating condition. Specifically, the spill bucket at the super unleaded tank was cracked [30 TEX. ADMIN. CODE § 334.51(a)(6) and TEX. WATER CODE § 26.3475(c)(2)].</p>	<p><b>Total Assessed:</b> \$7,230</p> <p><b>Total Deferred:</b> \$1,446  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid (Due) to General Revenue:</b> \$2,892 (remaining \$2,892 due in 2 monthly payments of \$1,446 each)</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>1) The Executive Director recognizes that, as of March 14, 2008, the Respondent has implemented the following corrective measures at the Facility:</p> <p>a. Implemented a release detection method for all USTs at the Facility, and began conducting reconciliation of inventory control records on March 14, 2008;</p> <p>b. Successfully conducted the required annual piping tightness test and line leak detector tests for performance and operational reliability on March 11, 2008; and</p> <p>c. Replaced the spill bucket on the super unleaded tank on March 14, 2008.</p>

Additional ID No(s): PST 42361



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision January 29, 2008

TCEQ

DATES

Assigned 25-Feb-2008  
PCW 19-May-2008

Screening 27-Feb-2008

EPA Due

## RESPONDENT/FACILITY INFORMATION

Respondent Chris Trout dba CTS C Store 1  
Reg. Ent. Ref. No. RN101433456  
Facility/Site Region 4-Dallas/Fort Worth

Major/Minor Source Major

## CASE INFORMATION

Enf./Case ID No. 35512  
Docket No. 2008-0394-PST-E  
Media Program(s) Petroleum Storage Tank  
Multi-Media  
Admin. Penalty \$ Limit Minimum \$0 Maximum \$10,000No. of Violations 2  
Order Type 1660  
Enf. Coordinator Wallace Myers  
EC's Team Enforcement Team 6

## Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 \$7,500

## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 2% Enhancement Subtotals 2, 3, &amp; 7 \$150

Notes Enhancement for one NOV without same or similar violations.

Culpability No 0% Enhancement

Subtotal 4 \$0

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 10% Reduction

Subtotal 5 \$750

	Before NOV	NOV to EDP RP/Settlement Offer
Extraordinary		
Ordinary		X
N/A		(mark with x)

Notes The Respondent came into compliance on March 14, 2008.

Total EB Amounts	\$338
Approx. Cost of Compliance	\$2,154

0% Enhancement\*  
\*Capped at the Total EB \$ Amount

Subtotal 6 \$0

SUM OF SUBTOTALS 1-7

Final Subtotal \$6,900

## OTHER FACTORS AS JUSTICE MAY REQUIRE

5%

Adjustment \$330

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes Recommended enhancement to capture the avoided cost of compliance associated with violation no. 1.

Final Penalty Amount \$7,230

## STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty \$7,230

## DEFERRAL

20%

Reduction Adjustment -\$1,446

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes Deferral offered for expedited settlement.

PAYABLE PENALTY

\$5,784

Screening Date 27-Feb-2008

Docket No. 2008-0394-PST-E

PCW

Respondent Chris Trout dba CTS C Store 1

Policy Revision 2 (September 2002)

Case ID No. 35512

PCW Revision January 29, 2008

Reg. Ent. Reference No. RN101433456

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Wallace Myers

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 2%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

Enhancement for one NOV without same or similar violations.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 2%

<b>Screening Date</b> 27-Feb-2008		<b>Docket No.</b> 2008-0394-PST-E		<b>PCW</b>																	
<b>Respondent</b> Chris Trout dba CTS C Store 1		<small>Policy Revision 2 (September 2002)</small>																			
<b>Case ID No.</b> 35512		<small>PCW Revision January 29, 2008</small>																			
<b>Reg. Ent. Reference No.</b> RN101433456																					
<b>Media [Statute]</b> Petroleum Storage Tank																					
<b>Enf. Coordinator</b> Wallace Myers																					
<b>Violation Number</b>		<div style="border: 1px solid black; padding: 2px;">1</div>																			
<b>Rule Cite(s)</b>		<div style="border: 1px solid black; padding: 2px;">30 Tex. Admin. Code § 334.50(d)(1)(B)(ii), (b)(2)(A)(i)(III), (b)(2) and Tex. Water Code § 26.3475(a) and (c)(1)</div>																			
<b>Violation Description</b>		<div style="border: 1px solid black; padding: 2px;">Failed to conduct reconciliation of inventory control records at least once a month, in a manner sufficiently accurate to detect a release which equals or exceeds the sum of 1% of the total substance flow-through for the month plus 130 gallons. Also, failed to test the line leak detectors at least once per year for performance and operational reliability and failed to provide proper release detection for the piping associated with the UST system.</div>																			
<b>Base Penalty</b>				<div style="border: 1px solid black; padding: 2px;">\$10,000</div>																	
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>																					
OR	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td></td> <td align="center" colspan="3"><b>Harm</b></td> </tr> <tr> <td align="center"><b>Release</b></td> <td align="center">Major</td> <td align="center">Moderate</td> <td align="center">Minor</td> </tr> <tr> <td align="center">Actual</td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> </tr> <tr> <td align="center">Potential</td> <td align="center">x</td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> </tr> </table>					<b>Harm</b>			<b>Release</b>	Major	Moderate	Minor	Actual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	Potential	x	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<b>Percent</b> <div style="border: 1px solid black; padding: 2px;">50%</div>
		<b>Harm</b>																			
	<b>Release</b>	Major	Moderate	Minor																	
Actual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																		
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<b>&gt;&gt; Programmatic Matrix</b>																					
	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td align="center"><b>Falsification</b></td> <td align="center">Major</td> <td align="center">Moderate</td> <td align="center">Minor</td> </tr> <tr> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> </tr> </table>				<b>Falsification</b>	Major	Moderate	Minor	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<b>Percent</b> <div style="border: 1px solid black; padding: 2px;">0%</div>								
<b>Falsification</b>	Major	Moderate	Minor																		
<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																		
<b>Matrix Notes</b>	<div style="border: 1px solid black; padding: 2px;">Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.</div>																				
<b>Adjustment</b>				<div style="border: 1px solid black; padding: 2px;">\$5,000</div>																	
				<div style="border: 1px solid black; padding: 2px;">\$5,000</div>																	
<b>Violation Events</b>																					
<b>Number of Violation Events</b>		<div style="border: 1px solid black; padding: 2px;">1</div>	<div style="border: 1px solid black; padding: 2px;">14</div>	<b>Number of violation days</b>																	
<small>mark only one with an x</small>	daily	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																			
	monthly	x																			
	quarterly	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																			
	semiannual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																			
	annual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																			
	single event	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																			
<b>Violation Base Penalty</b> <div style="border: 1px solid black; padding: 2px;">\$5,000</div>																					
<div style="border: 1px solid black; padding: 2px;">One monthly event is recommended based on documentation of the violation during the February 13, 2008 investigation to the February 27, 2008 screening date.</div>																					
<b>Economic Benefit (EB) for this violation</b>			<b>Statutory Limit Test</b>																		
<b>Estimated EB Amount</b>		<div style="border: 1px solid black; padding: 2px;">\$336</div>	<b>Violation Final Penalty Total</b> <div style="border: 1px solid black; padding: 2px;">\$4,820</div>																		
<b>This violation Final Assessed Penalty (adjusted for limits)</b>			<div style="border: 1px solid black; padding: 2px;">\$4,820</div>																		

**Economic Benefit Worksheet****Respondent** Chris Trout dba CTS C Store 1**Case ID No.** 35512**Reg. Ent. Reference No.** RN101433456**Media** Petroleum Storage Tank**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

**Delayed Costs**

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$1,500	13-Feb-2008	14-Mar-2008	0.1	\$6	n/a	\$6

**Notes for DELAYED costs**

Estimated cost to provide a method of release detection for the UST system including reconciliation of inventory control records. The date required is the investigation date and the final date is the date of compliance.

**Avoided Costs****ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$300	13-Feb-2007	11-Mar-2008	2.0	\$30	\$300	\$330
Other (as needed)				0.0	\$0	\$0	\$0

**Notes for AVOIDED costs**

Actual cost of conducting piping tightness and line leak detector tests, as per invoice. The date required is one year prior to the investigation date and the final date is the compliance date.

**Approx. Cost of Compliance****\$1,800****TOTAL****\$336**

Screening Date 27-Feb-2008

Docket No. 2008-0394-PST-E

PCW

Respondent Chris Trout dba CTS C Store 1

Policy Revision 2 (September 2002)

Case ID No. 35512

PCW Revision January 29, 2008

Reg. Ent. Reference No. RN101433456

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Wallace Myers

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 334.51(a)(6) and Tex. Water Code § 26.3475(c)(2)

Violation Description

Failed to ensure that all spill and overfill prevention devices are maintained in good operating condition. Specifically, the spill bucket at the super unleaded tank was cracked.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 25%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

## Violation Events

Number of Violation Events 1

14 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$2,500

One quarterly event is recommended based on documentation of the violation during the February 13, 2008 investigation to the February 27, 2008 screening date.

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$2

Violation Final Penalty Total \$2,410

This violation Final Assessed Penalty (adjusted for limits) \$2,410

**Economic Benefit Worksheet****Respondent** Chris Trout dba CTS C Store 1**Case ID No.** 35512**Reg. Ent. Reference No.** RN101433456**Media** Petroleum Storage Tank**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Item Description</b> No commas or \$						

**Delayed Costs**

Equipment	\$354	13-Feb-2008	14-Mar-2008	0.1	\$0	\$2	\$2
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

**Notes for DELAYED costs**

Actual cost to replace the spill bucket. The date required is the date of the investigation and the final date is the date of compliance.

**Avoided Costs****ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

**Notes for AVOIDED costs****Approx. Cost of Compliance**

\$354

**TOTAL**

\$2



# Compliance History

Customer/Respondent/Owner-Operator:	CN600744122	TROUT, CHRIS	Classification: AVERAGE	Rating: 0.50
Regulated Entity:	RN101433456	CTS C STORE 1	Classification: AVERAGE	Site Rating: 0.50
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	42361	
Location:	1950 N HIGHWAY 78, WYLIE, TX, 75098	Rating Date: 9/1/2007	Repeat Violator: NO	
TCEQ Region:	REGION 04 - DFW METROPLEX			
Date Compliance History Prepared:	February 27, 2008			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	February 27, 2003 to February 27, 2008			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Wallace Myers	Phone:	512-239-6580	

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period?	Yes
2. Has there been a (known) change in ownership of the site during the compliance period?	No
3. If Yes, who is the current owner?	N/A
4. If Yes, who was/were the prior owner(s)?	N/A
5. When did the change(s) in ownership occur?	N/A

## Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	07/08/2004	(276578)
2	09/23/2004	(334985)
3	12/17/2007	(610452)
4	02/22/2008	(618237)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 07/07/2004 (276578)

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter C 115.246(4)

Description: At the time of the investigation, the facility representative had not ensured that Stage II training documentation for each employee demonstrating proof of attendance and completion of the purpose and correct operating procedure of the Stage II system.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter C 115.244(3)

Description: At the time of the investigation, monthly inspections of components were not being performed. These components include: any pressure/vacuum relief valves, and Stage I drybreaks. Mr. Trout, tank owner, stated that monthly inspections were not being performed as required.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
CHRIS TROUT DBA CTS C STORE 1  
RN101433456**

§  
§  
§  
§  
§

**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2008-0394-PST-E**

### **I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Chris Trout dba CTS C Store 1 ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a convenience store with retail sales of gasoline at 1950 North Highway 78 in Wylie, Collin County, Texas (the "Facility").
2. The Respondent's four underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about March 1, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Seven Thousand Two Hundred Thirty Dollars (\$7,230) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Thousand Eight Hundred Ninety-Two Dollars (\$2,892) of the administrative penalty and One Thousand Four Hundred Forty-Six Dollars (\$1,446) is deferred contingent upon the Respondent's timely and satisfactory compliance with all



the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Two Thousand Eight Hundred Ninety-Two Dollars (\$2,892) of the administrative penalty shall be payable in two monthly payments of One Thousand Four Hundred Forty-Six Dollars (\$1,446) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that, as of March 14, 2008, the Respondent has implemented the following corrective measures at the Facility:
  - a. Implemented a release detection method for all USTs at the Facility, and began conducting reconciliation of inventory control records on March 14, 2008;
  - b. Successfully conducted the required annual piping tightness test and line leak detector tests for performance and operational reliability on March 11, 2008; and
  - c. Replaced the spill bucket on the super unleaded tank on March 14, 2008.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:



1. Failed to conduct reconciliation of inventory control records at least once a month, in a manner sufficiently accurate to detect a release which equals or exceeds the sum of 1% of the total substance flow-through for the month plus 130 gallons, in violation of 30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on February 13, 2008.
2. Failed to test the line leak detectors at least once per year for performance and operational reliability, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a), as documented during an investigation conducted on February 13, 2008.
3. Failed to provide proper release detection for the piping associated with the UST system, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(2) and TEX. WATER CODE § 26.3475(a), as documented during an investigation conducted on February 13, 2008.
4. Failed to ensure that all spill and overfill prevention devices are maintained in good operating condition, in violation of 30 TEX. ADMIN. CODE § 334.51(a)(6) and TEX. WATER CODE § 26.3475(c)(2), as documented during an investigation conducted on February 13, 2008. Specifically, the spill bucket at the super unleaded tank was cracked.

### III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Chris Trout dba CTS C Store 1, Docket No. 2008-0394-PST-E" to:  
  
Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088
2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days





after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
6. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.



## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
\_\_\_\_\_  
For the Executive Director

8/25/2008  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



\_\_\_\_\_  
Signature

6/6/08  
Date

CHRIS TROUT  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Chris Trout dba CTS C Store 1

OWNER  
\_\_\_\_\_  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

Handwritten signature or initials.

Handwritten signature or initials.

Handwritten signature or initials.

Handwritten signature or initials.